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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,529	07/10/2003	3Yen-Fu Chen	AUS920030520US1	3582
56937	7590	04/19/2007		
Rudolf O Siegesmund c/o Gordon & Rees, LLP 2100 Ross Avenue SUITE 2600 DALLAS, TX 75201			EXAMINER VU, THANH T	
			ART UNIT	PAPER NUMBER
			2174	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/19/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/617,529	<b>Applicant(s)</b> CHEN ET AL.	
	<b>Examiner</b> Thanh T. Vu	<b>Art Unit</b> 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 39-64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-38 are drawn to a list of items from which the user may choose classified in Class 715, Subclass 810.

Group II, claim(s) 39-64 are drawn to an ordered list of items classified in Class 715, Subclass 855.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I, and Group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination Invention I has separate utility such as providing a user interface having a list of items from which the user may choose. Invention II is directed to an ordered list of items See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR

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1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

During a telephone conversation with Rudolf Siegesmund on 4/10/07 a provisional election was made with traverse to prosecute the invention of I, claims 1-38. Affirmation of this election must be made by applicant in replying to this Office action. Claims 39-64 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirly et al. ("Kirly", U.S. Pat. No. 6,249,606) and Bauersfeld (U.S. Pat. No. 5,917,491).

Per claim 1, a programmable apparatus for modifying a menu program, comprising:

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a configuration table having at least one pointer operation, the pointer operation having a plurality of selectable modes (figs. 2 and 13-14; col. 6, lines 16-25; col. 17, lines 27-31; different gestures are provided by pointer operation); and

a configuration processor for detecting changes in the configuration table and distributing the changes to the menu program (figs. 1 and 13-14; col. 17, lines 13-18 and 27-31; menu items of an application program are associated with different gestures).

Kirlyay does not specifically teach the menu within an application program is a drop-down menu. However, Bauersfeld teaches a menu within an application program is a drop-down menu (figs. 2 and 3-4C; col. 2, lines 44-46 describes drop down menu). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include the teaching of Bauersfeld in the invention of Kirlyay in order to conserve space in an application program by including drop-down menu.

Per claim 2, Kirlyay teaches wherein the configuration table has an activating operation (figs. 2; col. 7, lines 1-10; command operation).

Per claim 3, Kirlyay teaches wherein the configuration table has a selecting operation (col. 17, lines 15-19 and lines 27-30; gesture of mouse device is used to select a menu operation).

Per claim 4, Kirlyay teaches the configuration table for menu (fig. 2) and Bauersfeld teaches a scrolling operation (col. 5, lines 37-45; a user can scroll up and down within the dropdown menu to locate a drop position using the drag&drop command).

Per claim 5, Kirlyay teaches the configuration table for a menu (fig. 2) and Bauersfeld teaches a sorting operation (col. 8, lines 29-33 and table 9).

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Per claim 6, Kirlay teaches the configuration table for a menu (fig. 2) and Bauersfeld teaches a recalling operation (fig. 3; col. 33-45; the bookmark dropdown menu provide a recalling operation of what are being saved in the bookmark).

Per claim 7, Bauersfeld teaches a selectable mode is a pointer-over mode (col. 5, lines 60-65).

Per claim 8, Bauersfeld teaches a selectable mode is a pointer-over-with-clicking mode (col. 5, lines 65-66).

Per claim 9, Kirlay a selectable mode is a pointer-movement mode (col. 6, lines 26-35; gesture is provided by mouse movement).

Per claim 10, Bauersfeld teaches a selectable mode is a pointer-over-with-highlighting mode (table 8; col. 7, lines 10-15).

Per claim 11, Bauerfeld teaches a selectable mode is a pointer-over-with-highlighting-and-clicking mode (table 8, col. 7, lines 10-15; while dragging, clicking mode is required).

Per claim 12, Kirlay teaches a configuration editor (fig. 14; col. 17, lines 55-65; gesture created by the user).

Per claim 13, Krilay teaches the configuration editor is a graphical configuration editor (fig. 14).

Per claim 14, Kirlay teaches the configuration editor has at least one operation control panel, the operation control panel having a plurality of selectable mode indicators (fig. 14; col. 6, lines 15-25; col. 17, lines 55-67; multiple different gestures can be defined).

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Per claim 15, Kirlay teaches the operation control panel is an activating control panel (col. 17, lines 28-31; computer commands are activated using gestures).

Per claim 16, Kirlay teaches the operation control panel is a selecting control panel (col. 17, lines 28-31; computer commands are selected using gestures).

Per claim 17, Kirlay teaches the operation control panel (fig. 14; col. 6, lines 15-25; col. 17, lines 55-67) and Bauersfeld teaches a scrolling control panel (col. 5, lines 37-45; a user can scroll up and down within the dropdown menu to locate a drop position using the drag&drop command).

Per claim 18, Kirlay teaches the operation control panel (fig. 14; col. 6, lines 15-25; col. 17, lines 55-67) and Bauersfeld teaches a sorting control panel col. 8, lines 29-33 and table 9).

Per claim 19, Kirlay teaches the operation control panel (fig. 14; col. 6, lines 15-25; col. 17, lines 55-67) and Bauersfeld teaches a recalling control panel (fig. 3; col. 33-45; the bookmark dropdown menu provide a recalling operation of what are being saved in the bookmark).

Claims 20-38 are rejected under the same rationale as claims 1-19 respectively.

### ***Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh T. Vu whose telephone number is (571) 272-4073. The examiner can normally be reached on Mon-Thur and every other Fri 7:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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